

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WILLIAM HANCOCK,

Petitioner,

v.

KEVIN BRYNES,

Respondent.

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Civil Action No. 09-2803 (JAP)

O R D E R

This matter having come before the Court on the filing of a Petition for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, and it appearing that:

1. Petitioner is currently confined at Hope Hall, Camden New Jersey. At the time he filed this petition, he was confined at the Bo Robinson Community Education Center, Trenton, New Jersey.

2. Petitioner did not prepay the \$5.00 filing fee for a habeas petition, as required by Local Civil Rule 54.3(a); nor did he submit an application to proceed in forma pauperis.

3. Further, petitioner names only his attorney, Kevin Brynes, Esq., as respondent. According to Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts, "If the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody." The proper person to be served as the officer having custody over the applicant is the warden of the

institution in which petitioner is incarcerated. See Rule 2 Advisory Committee Notes; see also Yi v. Maugans, 24 F.3d 500, 507 (3d Cir. 1994).

IT IS THEREFORE on this 18th day of December, 2009,

ORDERED that the Clerk of the Court shall supply Petitioner with a blank form in forma pauperis application for use in habeas cases; and it is further

ORDERED that, within 30 days of the date of entry of this Order, Petitioner shall either remit the \$5.00 filing fee or submit a completed and signed in forma pauperis application, with a certification of Petitioner's institutional account, as required by Local Civil Rule 81.2(b); and it is further

ORDERED that, if Petitioner does not pay the filing fee or submit a certified in forma pauperis application within the above 30-day period, the Petition will be deemed withdrawn, and the Clerk will be ordered to close the file in this matter; and it is further

ORDERED that Petitioner may file an amended petition naming the warden or administrator of the facility in which he is confined as a party respondent within 45 days of the date this Order is entered; and it is further

ORDERED that if Petitioner does not file an amended petition within the above 45-day period, the Court will enter an Order

dismissing the Petition without prejudice for failure to name an indispensable party.

/s/Joel A. Pisano

JOEL A. PISANO

United States District Judge